

APR 27 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICKEY N. BOLES,

Plaintiff - Appellant,

v.

JEAN HILL; et al.,

Defendants - Appellees.

No. 07-35556

D.C. No. CV-04-01529-MRH

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Oregon
Michael R. Hogan, District Judge, Presiding

Submitted April 13, 2009^{**}

Before: GRABER, GOULD, and BEA, Circuit Judges.

Rickey N. Boles, an Oregon state prisoner, appeals pro se from the district court's judgment in favor of defendants in his 42 U.S.C. § 1983 action alleging

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004), and we affirm.

Summary judgment was properly granted in favor of Superintendent Jean Hill because Boles failed to raise a genuine issue of material fact as to whether Hill was personally involved in his medical care. *See Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989).

Summary judgment was properly granted in favor of the remaining defendants because, assuming a serious medical need, Boles failed to raise a genuine issue of material fact as to whether these defendants were deliberately indifferent to his pectoral muscle injury. *See Toguchi*, 391 F.3d at 1057-58 (explaining that prison officials must know of and disregard a substantial risk of serious harm for their conduct to constitute deliberate indifference, and that a difference of medical opinion concerning treatment does not amount to deliberate indifference).

The district court did not abuse its discretion by denying Boles's request for appointment of counsel, *see Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991), or by declining to appoint an expert witness, *see Walker v. Am. Home Shield*

Long Term Disability Plan, 180 F.3d 1065, 1071 (9th Cir. 1999).

We deem abandoned Boles's contention that the district court abused its discretion by denying his motion for discovery. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (deeming abandoned issues raised but not argued on appeal).

Boles's request for appointment of counsel on appeal is denied.

AFFIRMED.